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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Dominique ROECKUN et al.

Group Art Unit: 1631

Application No.: 10/030,937

Examiner: J. Martinell

Filed: May 24, 2002

Docket No.: 111664

For: USE OF A POLYPEPTIDE FOR DETECTING, PREVENTING OR TREATING A
PATHOLOGICAL CONDITION ASSOCIATED WITH A DEGENERATIVE,
NEUROLOGICAL OR AUTOIMMUNE DISEASE

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the September 15, 2004 Restriction Requirement, Applicants provisionally elect Group I, claims 19-23, with traverse. As correctly noted by the Examiner, claims 19-23, 26-30, 33, 60 and 61 are pending in this application.

Under Rule 13.2 of the PCT, there is unity of invention "when there is a technical relationship among those inventions involving one of more of the same or corresponding special technical features." In the present application, all of Groups I-III have the same or a corresponding special technical feature, specifically the polypeptide of claim 19 of Group I defines a special technical feature that is common to Group II and corresponds to the special technical feature of Group III.

In particular, the unity of invention examples presented in the Administrative Instructions under the PCT indicate, in Example 1, that unity of invention exists between a substance X and the use of substance X. By analogy, there is clearly unity of invention

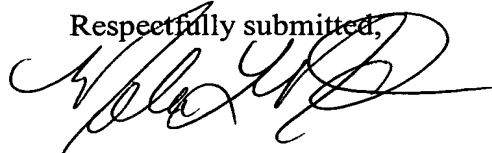
between the polypeptide of Group I and the method for detecting the polypeptide of Group II. The polypeptide is a special technical feature that is common to both of Groups I and II.

In addition, the unity of invention examples indicate, in Example 17, that unity of invention exists between protein X and a DNA sequence encoding protein X. By analogy, there is clearly unity of invention between the polypeptide of Group I and the nucleotide fragment of Group III, which encodes a polypeptide of Group I. These two groups have corresponding special technical features, specifically the polypeptide and the nucleotide fragment encoding the polypeptide.

It is also respectfully submitted that the subject matter of all claims 19-23, 26-30, 33, 60 and 61 is sufficiently related that a thorough search for the subject matter of any one Group of claims would encompass a search for the subject matter of the remaining claims. Thus, it is respectfully submitted that the search and examination of the entire application could be made without serious burden. See MPEP §803 in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



(William P. Berridge
Registration No. 30,024

Melanie L. McCollum
Registration No. 40,085

WPB:MLM/jam

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OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

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